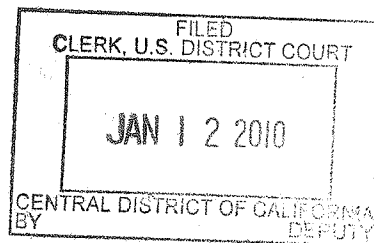


Conform

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Attorneys for Defendants
 BANK OF AMERICA, N.A. (erroneously sued in the
 alternative as "COUNTRYWIDE BANK, N.A."); AND
 MORTGAGE ELECTRONIC REGISTRATION
 SYSTEMS, INC.

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

JUAN CARLOS ZAPATA, et al;
 PATRICIA ULTRERAS

Plaintiffs,

v.

HARBOURTON MORTGAGE
 INVESTMENT CORPORATION; and
 AURORA LOAN SERVICES; and
 ROBERT E WEISS
 INCORPORATED; and UGIE
 COMPANY; and COUNTRYWIDE
 BANK, N.A.; BANK OF AMERICA,
 N.A.; MERS; AND ANY
 SUBSIDIARIES OF THE ABOVE
 NAMED DEFENDANTS; AND ANY
 KNOWN OR UNKNOWN JOHN
 DOES,

Defendants.

CV10 0198 RSWL FMOx
 Case No.

[Ventura County Superior Court Case
 No. 56-2009-00364081-CU-OR-VTA]

**NOTICE OF REMOVAL BY
 DEFENDANTS BANK OF
 AMERICA, N.A.; AND
 MORTGAGE ELECTRONIC
 REGISTRATION SYSTEMS, INC.
 UNDER 28 U.S.C. SECTIONS 1331
 AND 1441(a),(b) (FEDERAL
 QUESTION)**

Complaint Filed: December 17, 2009

1 TO THE CLERK OF THE ABOVE-ENTITLED COURT, AND TO ALL
2 PARTIES AND THEIR ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that Defendants Bank of America, N.A.
4 (erroneously sued in the alternative as "Countrywide Bank, N.A."), and Mortgage
5 Electronic Registration Systems, Inc. ("MERS") (collectively, "Defendants")
6 remove to this Court the action described below from the Superior Court of the State
7 of California for the County of Ventura to the United States District Court for the
8 Central District of California.

9 **I. BACKGROUND**

10 1. Plaintiffs Juan Carlos Zapata and Patricia Ultreras ("Plaintiffs") filed an
11 action in the Superior Court of the State of California, County of Ventura, entitled
12 Juan Carlos Zapata, et al. v. Harbourton Mortgage Investment Corporation, et al.,
13 Case No. 56-2009-00364081-CU-OR-VTA, on December 17, 2009 (the "State
14 Court Action").

15 **II. BASIS FOR REMOVAL**

16 2. The above-described State Court Action is a civil action of which this
17 Court has original jurisdiction under the provisions of 28 U.S.C. Section 1331, and
18 is one that may be removed to this Court by Defendants under to 28 U.S.C. Section
19 1441(a),(b).

20 3. Section 1441(a) of Title 28 of the United States Code provides for
21 removal of any action in which the United States district courts have original
22 jurisdiction. Section 1441(b) states that district courts have original jurisdiction
23 over any civil action founded on a claim or right arising under the "laws of the
24 United States and shall be removable without regard to citizenship or residence of
25 the parties."

26 4. Plaintiff's first cause of action for "Injunctive Relief" alleges violations
27 of 42 U.S.C. §§ 1981 and 1982, "which rights are actionable" under §§ 1983 and
28 1988(a). (Compl. ¶ 1.)

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5. Plaintiff's second cause of action is for "Unfair Debt Collection Practices & Predatory Lending Including TILA and RESPA Violations." It also alleges violation of the Federal Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.* (Compl. ¶ 7.)

6. Plaintiff's third cause of action is for "Failure To Be The Real Party In Interest In A Foreclosure Action (See Federal Rules of Civil Procedure Rule 17(a))." (Compl. ¶ 19.)

7. Plaintiff's fourth cause of action is for "Illegal Securitization Of The Note," and alleges that "[u]nder US laws, securitization is illegal, primarily because it is fraudulent and caused specific violations of RICO, usury, and antitrust laws." (Compl. ¶ 21.)

8. Thus, Plaintiff's first, second, third, and fourth causes of action arise under federal law because they are predicated on alleged violations of federal statutes and are dependent on the resolution of substantial and disputed federal questions.

III. PROCEDURAL COMPLIANCE

9. A notice of removal must be filed within "thirty days after receipt by the defendant . . . of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based." 28 U.S.C. § 1446(b).

10. This Notice of Removal is timely filed within thirty days of Defendants' receipt of the Complaint on December 29, 2009.

11. Defendants are informed and believe that the other defendants have not been properly served. Regardless, co-defendant Robert E. Weiss Incorporated has consented to removal.

12. The State Court Action was pending before the Superior Court for the County of Ventura. Because this Court is the United States District Court for the district and division embracing the place where the original action was filed, it is the appropriate Court for removal under 28 U.S.C. Section 1446.

13. Under 28 U.S.C. Section 1446(a), attached as Exhibit A are copies of "all process, pleadings, and orders served upon" Defendants. A copy of this notice will be served on all parties of record and will be filed with the Clerk of the Superior Court for the County of Ventura.


IV. CONCLUSION

Defendants respectfully request that the above State Court Action be removed from the state court in which it was filed to the United States District Court for the Central District of California, and request further that this Honorable Court issue all necessary orders and process and grant such other and further relief as in law and justice Defendants may be entitled to receive.

Dated: January 12, 2010

BRYAN CAVE LLP

ROBERT E. BOONE, III
BRIAN J. RECOR
JOSEPH L. CAVINATO, III

By: 
Joseph L. Cavinato, III
Attorneys for Defendants
BANK OF AMERICA, N.A. (erroneously
sued in the alternative as "COUNTRYWIDE
BANK, N.A."); AND MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC.

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I (a) PLAINTIFFS (Check box if you are representing yourself ☒)
 Juan Carlos Zapata; Patricia Ultreras

DEFENDANTS
 Harbourton Mortgage Investment Corporation; Aurora Loan Services;
 Robert E. Weiss Incorporated; Ugie Company; Countrywide Bank,
 N.A.; Bank of America, N.A.; MERS; and any subsidiaries of the
 above named defendants; and any known or unknown John Does.

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)
 1660 Tapir Circle, Ventura CA 93003
 (805) 452-5736

Attorneys (If Known)
 Robert E. Boone, III, Brian J. Recor, Joseph L. Cavinato, III, Bryan Cave LLP, 120 Broadway, Suite 300, Santa Monica, CA 90401 T: (310) 576-2100
 Attorneys for Defendants Bank of America, N.A. (erroneously sued in the alternative as "Countrywide Bank, N.A."); and Mortgage Electronic Registration Systems, Inc.

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
 (Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN (Place an X in one box only.)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No

☐ **MONEY DEMANDED IN COMPLAINT: \$**

VI. CAUSE OF ACTION (Cite the U. S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 15 U.S.C § 1601, (TILA), 12 U.S.C. §§ 2601-2617 (RESPA), 15 U.S.C. §§ 1692 et seq. (FDCPA)

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS PERSONAL INJURY	TORTS PERSONAL PROPERTY	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input checked="" type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 General	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 22 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE / PENALTY	PROPERTY RIGHTS
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 630 Liquor Laws	SOCIAL SECURITY
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 61 HIA(1395ff)
<input type="checkbox"/> 891 Agricultural Act	REAL PROPERTY	IMMIGRATION	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 863 DIWC/DIWW 405(g)
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 465 Other Immigration Actions			<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land				FEDERAL TAX SUITS
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s):

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☐ No ☒ Yes

If yes, list case number(s): 09-08810 DDP (CTx) and 10-00159-RSWL (AJW)

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Ventura	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	Sonoma County, California; Colorado, Delaware; North Carolina

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Ventura	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): Joseph L. Cavinato, III Date January 12, 2010

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3 -1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Ronald S. W. Lew and the assigned discovery Magistrate Judge is Fernando M. Olguin.

The case number on all documents filed with the Court should read as follows:

CV10- 198 RSWL (FMOx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

===== :
NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.